

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Teresa Eades,)	
)	
Plaintiff,)	CA No. 8:11-1516-TMC
)	
v.)	ORDER
)	
Ark Holdings, Inc.; Covenant Dove, LLC;)	
HMR Advantage Health Systems, Inc.;)	
Easley Living Center, LLC; Majesty Health)	
& Rehab of Easley, LLC; Ark Holding Co.,)	
Inc., d/b/a Ark Holdings, Inc.,)	
)	
Defendants.)	
)	

Teresa Eades (Eades) filed this action against the defendants, alleging violations of the Family and Medical Leave Act (FMLA). (Dkt. No. 1.) This matter is before the court for review of the Report and Recommendation (Report) (Dkt. No. 66) of the United States magistrate judge made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina. The Report recommends¹ denying as moot a motion to dismiss filed by Ark Holdings, Inc.,² Covenant Dove, LLC, and Majesty Health and Rehab of Easley, LLC (the Majesty Defendants). (Dkt. No. 9.) The court adopts the Report and denies the motion to dismiss as moot.

On November 23, 2011, the magistrate judge issued the Report, which sets forth in detail

¹ The magistrate judge's recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

² Defendant Ark Holdings, Inc., was terminated as a party on July 25, 2011, after the Majesty Defendants filed the motion to dismiss that is the subject of the Report. (Dkt. No. 17.)

the relevant facts and legal standards on this matter, and the court incorporates the magistrate judge's Report herein without a recitation. Objections to the Report were due by December 12, 2011. However, no objections to the Report have been filed. In the absence of objections to the Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and the record in this case, the court adopts the Report and incorporates it herein. (Dkt. No. 66.) It is therefore **ORDERED** that the motion to dismiss for failure to state a claim filed by the defendants, Ark Holdings, Inc., Covenant Dove, LLC, and Majesty Health & Rehab of Easley, LLC is **DENIED AS MOOT**. (Dkt. No. 9.)

IT IS SO ORDERED.

s/Timothy M. Cain
Timothy M. Cain
United States District Judge

Greenville, South Carolina
December 29, 2011

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.